IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 24647 of 2004

Between:

P. Chalama Reddy, S/o. P. Pulla Reddy,
R/o. Shaik Palli Village, Pedda Pappur Mandal,
Anantapur District.

..... PETITIONER

AND

1 The Depot Manager, A.P.S.R.T.C. Tadipatri Depot,
Anantapur District.
2 The Principal Secretary, Government of A.P. Labour
Employment, Training & Factories (Lab-I) Department,
Secretariat Building, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue or order or orders, or direction more particularly one in the nature of writ of mandamus declaring the letter No. 2651/Lab.I/A2/2002-1 dated 7-2-03 of the 2nd respondent in refusing to refer the matter to labour court for adjudication as illegal, arbitrary, unjustified, unsustainable contrary to law and set-a-aside the same and consequently direct the 2nd respondent to refer the matter to labour court.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court at the admission stage, made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 24647 of 2004

ORDER:

The petitioner is working as a Conductor in the 1st respondent-Corporation. He was imposed a penalty of stoppage of two increments with cumulative effect. He preferred an appeal to the concerned authority and the said appeal was rejected. Later he filed a review petition before the Regional Manger of the Corporation and it was also rejected on 28-04-2001 . The petitioner subsequently filed an application under Section 2-K of the Industrial Disputes Act, 1947 on 30-07-2002 to the Assistant Commissioner of Labour through the Employees' Union. The Assistant Commissioner of Labour submitted failure report of conciliation under Section 12(5) of the Industrial Disputes Act and subsequently, the second respondent passed an order on 07-02-2003
by observing that the dispute raised by the Union does not merit reference for adjudication as it was raised after a lapse of more than eleven years by following an unreported judgment of this Court in W.P.No.2206 of 2000.

2. The learned counsel for the petitioner relied on a Judgemnt of the Supreme Court in support of his contention. I n ***AJAIB SINGH v. SIRHIND CO-OP. MARKETTING-CUM-PROCESSING SERVICE SOCIETY LIMITED AND ANOTHER***, the Supreme Court held that the provisions of Article 137 of the Schedule to the Limitation Act, 1963 are not applicable to the proceedings under the Industrial Disputes Act, 1947 and the relief under the Act cannot be denied to the workman merely on the ground of delay.

3. In the light of the above judgment of the Supreme Court, the ground on which the impugned order passed cannot sustain. The 2nd respondent also committed an error in showing the period from the date of initial order instead of showing the period from the date of rejection of review petition on 28-04-2001.

4. In the light of the above circumstances, the order of the second respondent

dated 07-02-2003 is set aside. The 2nd respondent is accordingly directed to refer the matter to the Labour Court for adjudication under the provisions of the Industrial Disputes Act, 1947 within two months from the date of receipt of a copy of this order.

5. The writ petition is accordingly allowed. No costs.

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December 29, 2004

Kvr

To

1 The Depot Manager, A.P.S.R.T.C. Tadipatri
Depot, Anantapur District.
2 The Principal Secretary, Government of A.P. Labour
Employment, Training & Factories (Lab-I) Department,

Secretariat Building, Hyderabad.

3. 2 C.D copies.